

PLANNED DEVELOPMENT PERMIT AMENDMENT

FILE NO.	PDA12-031-01
LOCATION OF PROPERTY	North side of Berryessa Road between the former Union Pacific Railroad tracks to the east and Coyote Creek to the west (Flea Market)
ZONING DISTRICT	A(PD) Planned Development
ZONING FILE NUMBER	PDC09-006
GENERAL PLAN DESIGNATION	Urban Village
PROPOSED USE	A Planned Development Permit Amendment to the approved, but not constructed multi-family housing development to increase the number of units to 551 units, and allows the condominium of approximately 37,000 square feet of commercial space, and update architecture for Blocks 9, 10 and 11 on an approximately 6.3 gross acre site.
ENVIRONMENTAL STATUS	Determination of Consistency with the Final San Jose Flea Market EIR (File No. PDC03-108)
OWNER/ADDRESS	Bumb & Associates/ Flea Market, Inc. Brian Bumb, President 1590 Berryessa Road San Jose, CA 95133

FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This subject site has a designation of Urban Village on the adopted San José 2040 General Plan Land Use/Transportation Diagram.
2. San José 2040 General Plan Implementation Policy IP-1.4 states that the implementation of existing planned development zonings and/or approved and effective land use entitlements, which were previously found to be in conformance with the General Plan prior to its comprehensive update, are considered as being in conformance with the *Envision General Plan* when the implementation of such entitlements supports its goals and policies.

3. The subject site is zoned A(PD) Planned Development. The Planned Development Zoning (File No. PDC09-006) was reviewed by the City Council and approved with Ordinance No. 28657 adopted November 3, 2009.
4. The subject site's Planned Development Zoning was approved by the City Council prior to the adoption of the 2040 General Plan on November 1, 2011.
5. This subject site has a designation of Urban Village on the Envision San José 2040 General Plan Land Use/Transportation Diagram.
6. The site is currently developed with the surface parking lot for the San Jose Flea Market, which will be demolished as a part of this project. The remaining overall development site not covered under this permit will remain as is until such time as development permits are approved for the said remainder of the site.
7. The project proposes to allow for the construction of 551 multi-family residences and approximately 37,000 square feet of commercial space on an approximately 6.3 gross acre site.
8. The project proposes non-residential condominiums that will be a minimum of 750 square feet.
9. The commercial space will be located on the ground floor of a mixed use residential building, fronting Berryessa road.
10. Parking is provided in a parking garage located behind the commercial spaces with ingress and egress from Sierra Road and Flea Market Place.
11. The project proposes a net density of 87.46 dwelling units per acre.
12. Common open space is provided in central courtyard space and interior amenity space and private open space is provided in the form of patios and balconies for Blocks 9, 10, and 11.
13. On-site parking is provided in a parking garage for each building on Blocks 9, 10, and 11.
14. No ordinance size trees will be removed as a part of this permit.
15. In accordance with Section 20.100.900 of the San José Municipal Code, a Planned Development Permit is required.
16. Determination of Consistency with the Final Environmental Impact Report (EIR) for the San Jose Flea Market General Plan Amendment and Planned Development Rezoning Project, Resolution No. 73956, was certified and the project approved by the City Council on November 3, 2009. The Addendum states that no new significant impacts or impacts of greater severity would result from the modified project description.

FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The Planned Development Permit, as issued, furthers the policies of the General Plan, in that:
 - a. The proposed Planned Development Permit Amendment is consistent with the Envision San Jose 2040 General Plan Land Use/Transportation Diagram land use designations of Urban Village (Up to 250DU/AC & FAR up to 10.0) in that the density of the project is

87.46 dwelling units per acre, which is within the allowed dwelling units per acre and FAR of the site.

- b. The project furthers the General Plan's Housing Major Strategies by providing housing opportunities on infill property that is already served by existing urban services and will maximize the infill housing opportunity in a form that is compatible with the surrounding development pattern.
 - c. The project furthers the General Plan's Economic Development Major Strategy, as the project will facilitate transit supportive development adjacent to a proposed BART station.
 2. The Planned Development Permit Amendment, as issued, conforms in all respects to the Planned Development Zoning of the property in that:
 - a. The proposed project conforms to the approved General Development Plan under File No. PDC09-006 as mixed use, multi-family residential development is a permitted use.
 - b. The proposed project meets the setback, height, open space and parking requirements of the approved General Development Plan (File No. PDC09-006).
 3. Based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning finds and concludes pursuant to Section 20.100.820 of the San José Municipal Code:
 - a. The proposed use at the location requested will not:
 - i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - iii. Be detrimental to public health, safety, or general welfare; and
 - b. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and
 - c. The proposed site is adequately served:
 - i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - ii. By other public or private service facilities as are required.
 4. Urban Village Plan: This project is located in a designated Urban Village per the Envision San Jose 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.
 5. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious, in that:

- a. The architectural design of the project is consistent with the standards of the Residential Design Guidelines.
6. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water run off, and odor, which even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. An addendum to the Final Environmental Impact Report (EIR) for the San Jose Flea Market General Plan Amendment and Planned Development Rezoning Project, Resolution No. 73956, was certified and the project approved by the City Council in November 2009. The Addendum evaluated impacts related to air quality, cultural resources, geology, hydrology and hazardous materials, land use, noise, and traffic and transportation. Based on the analysis, it has been concluded that the San Jose Flea Market General Plan Amendment and Planned Development Rezoning Project Final EIR adequately addresses the environmental effects of the proposed project, and project would not result in significant environmental effects that are not already identified in the Final EIR. The project, therefore, meets the eligibility requirements for preparation of an addendum and does not require a supplemental EIR or Negative Declaration.
 - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Chapter 20.100 of the San José Municipal Code, the subject Planned Development Permit.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit Amendment shall automatically expire four (4) years from and after the date of issuance hereof by said Director, if within such four year period, the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Planned Development Permit Amendment. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San Jose Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval

when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

4. **Conformance to Plans.** Development of the site shall conform to approved Planned Development plans entitled *“Planned Development Permit Amendment for Market Park”* last dated *April 13, 2016*, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes.
5. **Compliance with Other Permits.** The developer shall comply with all terms and conditions of the previously approved permits on the site.
6. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
7. **Conformance with Previously Approved Zoning and Environmental Clearance.** All conditions of approval and required environmental mitigation measures from the approved Planned Development Zoning (File no. PDC09-006) remain in effect.
8. **Revocation.** This Planned Development Permit Amendment is subject to revocation for violation of any of its provisions or conditions.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Planned Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San Jose Municipal Code.
10. **Construction/Demolition Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction/demolition activities in compliance with these conditions, or be subject to enforcement action.
 - a. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
 - b. *Construction Hours.* Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel.
 - c. *Plans.* The construction hours shall be printed on all plans for the project used to construct the project.

- d. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
- e. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
- f. *Fencing.* The site shall be wholly enclosed by security fencing where the site is accessible by vehicles. The gates to the project site shall remain locked during all other times, except for a 30-minute period immediately preceding and following the above hours of construction.
- g. *Assembly Area.* Workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
- h. *Disturbance Coordinator.* A Construction/Disturbance Coordinator shall be identified by the developer for this project. The Construction/Disturbance Coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance compliance conditions in this permit. The coordinator shall also compile information regarding construction phasing/operations and keep the neighborhood informed of the stages of development. The coordinator shall also listen and respond to neighborhood concerns regarding construction, determine the cause of the concern (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem in a timely manner. The coordinator shall maintain a log of calls and shall make that log available to the City of San Jose upon request.
- i. *Construction Equipment.* Equip all internal combustion engine-driven equipment with mufflers which are in good condition and appropriate for the equipment.
 - i. Utilize "quiet" models of air compressors and other stationary noise sources where technology exists.
 - ii. Locate stationary noise-generating equipment as far as possible from sensitive receptors. Staging of construction equipment will be as far as feasible from the sensitive receptors.
 - iii. Prohibit unnecessary idling of internal combustion engines.
- j. *Posting of Telephone Number.* The name and phone number of the construction/Disturbance coordinator, the hours of construction limitations, City File Number PD12-031, City contact and phone number, shall be displayed on a weatherproof sign posted at each entrance to the project site. A local phone number with answering service shall be maintained during the duration of project construction.
- k. *Street Cleaning and Dust Control.* During construction, the developer shall damp-sweep the public and private streets within and adjoining the project site each working day

sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

- l. *Construction Watering.* The proposed project shall use recycled water for all grading, dust control, and other non-potable approved uses during construction to the satisfaction of the Director of Public Works.
- m. *Recycling.* Scrap construction and demolition material should be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
- n. Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- o. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard.
- p. Pave, or apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- q. Sweep daily (or more often if necessary) to prevent visible dust from leaving the site (preferably with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- r. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- s. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- t. Enclose, cover, water at least twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site.
- u. Limit traffic speed on unpaved roads to 15 mph.
- v. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- w. Replant vegetation in disturbed areas as quickly as possible.
- x. Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.
- y. Install wind breaks, or plant trees/ vegetative wind breaks at windward side(s) of construction areas.
- z. Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph.
- aa. Limit the area subject to excavation grading, and other construction activity at any one time.

11. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Tract Map:** Place all necessary public and private easements on the map. The appropriate easements are required for any utilities crossing property lines.
- c. **Transportation:**
 - i. This project is subject to the City's current US-101/Oakland/Mabury Transportation Development Policy. Contact staff for policy details specific to this permit.
 - ii. Per Traffic Impact Analysis for the project, four protected intersections (Hedding Street/10th Street, Taylor Street/1st Street, Taylor Street/10th Street and 13th Street/Hedding Street) were impacted. The project is required to provide offsetting improvements in accordance to the City's protected intersection policy. Through additional coordination with the applicant, it has been identified that a maximum of \$2,500,000 in offsetting improvements be accomplished as conditioned in the Planned Development Amendment, PDA08-025-02. Additionally, the specific improvements and timing/phasing shall be implemented as follows:
 - 1) **Phase A** (Northside of Berryessa, PD08-027, 242 Residential Units + Commercial):
 - a) Applicant shall contribute an in-lieu fee in the amount of \$723,000 to satisfy this condition.
 - b) Payment shall be less engineering design costs associated with early coordination of improvements (currently identified as \$42,022).
 - c) Payment to be made within 24 months of the recordation of the Final Map for Phase A.
 - d) Applicant may be required to construct improvements at a later time by combining this funding amount with future offsetting improvements in later phases.
 - 2) **Phase B** (Northside of Berryessa, PD12-031/PDA12-031-01, 545 Residential Units + commercial):
 - a) Applicant shall design/construct offsetting improvements in the amount of \$527,000 to satisfy this condition.
 - b) Improvements to be designed and permitted by the City within 12 months of the issuance of building permit for the last apartment/condominium building fronting Berryessa Road.

- c) Design/construction of improvements may be increased based on Phase A in-lieu payment to the City with Applicant to construct improvements and City to reimburse for any amount greater than \$527,000.

3) **Phase C** (Southside of Berryessa):

- a) Applicant shall design/construct offsetting improvements in the amount of \$1,250,000 to satisfy this condition.
- b) Specific phasing and implementation of improvements to be identified during subsequent planning permits for any development on the southside of Berryessa Road.

d. **Grading/Geology:**

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
 - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- e. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The project's Stormwater Control Plan and numeric sizing calculations have been approved under the master PD Permit, file number PD08-025, and this project will be in conformance with City Policy 6-29.

f. **Flood: Portions in Zone AH, Elevation 82.00' North American Vertical Datum 1988 (NAVD88) & Zone D**

This project is proposing to apply for a Letter of Map Revision Based on Fill (LOMR-F) to FEMA for removal from the 100-year floodplain.

- i. The Conditional Letter of Map Revision Based on Fill (CLOMR-F), that provides comments on the proposed project by FEMA, was issued on September 24, 2015.
- ii. The approved LOMR-F is required prior to issuance of Building permit.
- iii. If a LOMR-F is not issued by FEMA, the following conditions apply:
 - 1) Elevate the lowest floor, including basement, above 82.00' NAVD88.
 - 2) An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
 - 3) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

h. **Undergrounding:** Berryessa Road has been identified as a designated street and is subject to the In-lieu Undergrounding fee which is based on the intensification of the project. However, undergrounding work has been completed by the prior phase of development therefore no In-lieu undergrounding fees will be due.

i. **Assessments:** This project is located within the boundaries of Community Facilities District No. 15, which maintains a stormwater treatment facility, its pump station, as well as street trees and landscaping within parkstrips and areas adjacent to the basin. Properties within the district pay for the maintenance through annual special taxes, which are adjusted annually by the Consumer Price Index. The 2015-16 maximum special tax is calculated at \$102.84 per residential unit and \$4,373.84 per acre for non-residential uses. Future year assessments will continue to be collected through the County property tax bills listed under Tax Code 945 "SAN JOSE-CFD #15". Any questions may be directed to Thomas Borden at (408) 535-6831.

j. **Street Improvements:**

- i. De Rome Drive cross-section (east-west alignment): construct 56' full street section with 10' attached sidewalks and tree wells at the back of curb. Dedication of 56, street easement will be required.
- ii. Flea Market Place cross-section (north-south alignment): construct 60' full street section with 10' attached sidewalks and tree wells at the back of curb. Dedication of 60' street easement will be required.
- iii. Construct City standard ADA ramps at all corners along all new public streets.
- iv. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.

- v. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- k. **Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall apply for a Revocable Encroachment Permit for any proposed sidewalk and lane closures on Berryessa Road to support the onsite construction activities.
 - i. The following should be included with the Revocable Permit application, but are not limited to:
 - 1) Letter of Intent: This document should provide a detailed description of the reasons for the sidewalk/lane closures and why they are absolutely necessary (man lifts, baker tanks, staging area, concrete pumping activities, etc.) and reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).
 - 2) Multi-Phased Site Specific Sketches: These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
 - ii. Developer shall minimize the potential impact to vehicular and pedestrian traffic by:
 - 1) Implementing the closures at the time the onsite activities dictate the need for the closure.
 - 2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlines in condition 10.a.ii above.
 - iii. If proposed lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at:
<http://www.sanjoseca.gov/index.aspx?NID=3713>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
- l. **Sanitary:** Construct sanitary sewer improvements per the Berryessa Sanitary Sewer Public Improvement plans to the satisfaction of the Director of Public Works. The City will contribute funds/credits to the project in order to provide additional capacity in the sewer system to be constructed to serve The Flea Market project and this sub-area of San Jose. The design for the sanitary sewer will be initially funded by the owner or developer, subject to a reimbursement percentage (equal to the City's direct benefit of excess capacity)
- m. **Electrical:**
 - i. Electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

- iii. Provide clearance for electrical equipment from driveways, and relocate driveway or electroliner. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
 - n. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
12. **Parkland Dedication Ordinance.** This development is subject to the requirements of either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code,) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
13. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Permit Adjustment.* A Permit Adjustment to allow for exterior lighting shall be approved prior to the submittal of building permits. (See condition #21 of this permit.)
 - b. *Park Impact Fees.* The applicant shall provide evidence to the Chief Building Official that the applicable Park Impact Fees, pursuant to Ordinance 24172 (Chapter 14.25 of Title 14 of the San José Municipal Code), have been paid to the satisfaction of the Director of Public Works.
 - c. *Construction Plans.* This permit file number, **PDA12-031-01**, shall be printed on all construction plans submitted to the Building Division.
 - d. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - e. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - f. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night.
 - g. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
14. **Green Building.** The project must receive a minimum green building certification of LEED Silver. The applicant shall pay a Green Building Refundable Deposit at the building permit stage. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code. In the

event that building permits are issued for individual units and not a more than one “model” unit, the applicant will need to submit a green building checklist prior to the issuance of a building permit.

15. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
16. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San Jose Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
17. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
18. **Storm Water Stenciling.** All drain inlets shall be labeled “No Dumping—Flows to Bay.” Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
19. **Colors and Materials.** All building colors and materials shall be as shown on the approved plans. Changes to the approved colors and materials shall require review by the Director of Planning, Building, and Code Enforcement.
20. **Fencing.** Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
21. **Lighting.** All additional proposed exterior lighting is subject to the approval of a Permit Adjustment. On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
22. **Mechanical Equipment.** The location of mechanical equipment (AC Units) shall be located as shown on the approved plans and shall be screened from view.
23. **Sign Approval.** No signage is approved with this Planned Development Permit Amendment. All proposed signage is subject to the approval of a Sign Permit Adjustment.

APPROVED and issued on this 13th day of **April, 2016**.

Harry Freitas, Director
Planning, Building, and Code Enforcement

Deputy